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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,829	02/20/2002	Katsunobu Hayashi	P13205	7831
40401 7590 09/10/2007 HERSHKOVITZ & ASSOCIATES 2845 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER COLBERT, ELLA	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/683,829	Applicant(s) HAYASHI, KATSUNOBU	
	Examiner Ella Colbert	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are pending in this communication filed 06/04/07 in response to the Election/Restriction Requirement. Group I, Claims 1-8, 17, and 18 have been elected with traverse in response to the Election/Restriction Requirement.
2. The Request for an Extension Time filed 06/04/07 has been entered.
3. The Applicants' arguments traversing the restriction requirement are hereby acknowledged. The restriction requirement is hereby withdrawn in view of Applicants' convincing arguments and claims 1-20 will be examined on the merits.

Specification

4. The Specification is objected to because the Specification does not conform to US practice. The Summary of the Invention is merely a recitation of the claim limitations and does not comply with US Patent application practice. Correction is required. See MPEP § 608.01(b).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

Art Unit: 3694

- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

Art Unit: 3694

- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

Claim Objections

5. Claim 13 is objected to because of the following informalities: Claim 13 line 2, page 29 recites "an amount calculation nit for ...". This line should recite "an amount calculation unit for ...". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 2, 4, 7, 9, 15, and 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites "predetermined first condition" and "predetermined second condition" which could not be found in Applicant's Specification to be described in a manner that can be determined

what entails a "predetermined first and second condition" or "first and second condition".

Claims 2, 4, 7, 9, 15, and 17-20 have a similar problem.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-20 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document.

Claim 1 recites "predetermined first condition" and "predetermined second condition" and "first condition" and "second condition". It is unclear whether the "predetermined first condition" and "predetermined second condition" are the same as the "first condition" and "second condition". Also the claims are not in agreement because claims 2, 4, 7, 9, 15, and 17-20 recite "first condition" and "second condition".

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 6,009,402) Whitworth.

The claims have been rejected to the best of the Examiner's ability considering the condition of the claims.

Claims 1, 9, 19, and 20. Whitworth discloses, A compensation contract supporting system that supports a compensation contract which provides a customer compensation for a profit risk created by a plurality of risk factors that influence a profit of said customer, comprising: a database for storing statistical data of said plurality of risk factors; a first probability calculation unit for calculating a probability, in which a part of said plurality of said risk factors satisfy a predetermined first condition ,and a probability, in which remaining said plurality of said risk factors satisfy a predetermined second condition using said database, and at least one of said first condition and said second condition being an non-financial condition that is not related to a financial product (col. 12, lines 6-58); and a ratio calculation unit for calculating a ratio between a first compensation amount to be paid or received by said customer when said part of said risk factors satisfy said first condition and a second compensation amount to be paid or received by said customer when said remaining risk factors satisfy said second condition using said probability calculated by said first probability calculation unit (col.

Art Unit: 3694

11, lines 6-67).

Claims 2 and 10. A compensation contract supporting system, wherein said first compensation amount is an amount to be paid to said customer when said part of said risk factors satisfy said first condition, and said second compensation amount is an amount to be received from said customer when said remaining risk factors satisfy said second condition (col. 14, lines 45-59).

Claims 3 and 11. A compensation contract supporting, further comprising: a correlation calculation unit for calculating a correlation among said plurality of risk factors based on said statistical data read out from said database; wherein: said ratio calculation unit calculates a ratio between said first compensation amount and said second compensation amount using said probability calculated by said first probability calculation unit and said correlation calculated by said correlation calculation unit (col. 14, lines 9-15).

Claims 4 and 12. A compensation contract supporting system, further comprising: a second probability calculation unit for calculating a probability in which said first condition, which is to be a base for calculating said first compensation amount, and said second condition, which is to be a base for calculating said second compensation amount, are satisfied at the same time; wherein: said ratio calculation unit calculates said ratio further using said probability calculated by said second probability calculation unit (col. 14, line 1-col. 15, line 17).

Claims 5 and 13. A compensation contract supporting system, further comprising: an amount acquiring unit for acquiring any two of said first compensation

Art Unit: 3694

amount, said second compensation amount, and a prepaid amount, which are requested by said customer, said prepaid amount being an amount to be previously received from said customer or to be previously paid to said customer to cover a difference between a risk created by said first compensation amount and a risk created by said second compensation amount; and an amount calculation unit for calculating remaining one of said first compensation amount, said second compensation amount, and said prepaid amount using said any two of said first compensation amount, said second compensation amount, and said prepaid amount acquired by said amount acquiring unit, and said ratio calculated by said ratio calculation unit (col. 16, lines 8-38).

Claims 6 and 14. A compensation contract supporting system, further comprising: a contract database for storing data related to said compensation, which is provided to said customer by the compensation contract supporting system; and a risk calculation unit for calculating a payment-amount-risk involved in a contract, which is concluded via said compensation contract supporting system, using a present value of said risk factors and said contract database (col. 11, lines 1-62).

Claims 7 and 15. A compensation contract supporting system, further comprising: a contract database for storing data related to said compensation, which is provided to said customer by the compensation contract supporting system (col. 11, lines 39-62); and a risk calculation unit for calculating a payment-amount-risk created by the compensation provided to said customer by the compensation contract supporting system using said contract database and said first condition or said second condition of said risk factors (col. 12, lines 6-58); wherein: said ratio calculation unit calculates said

Art Unit: 3694

ratio using said payment-amount-risk calculated by said risk calculation unit (col. 13, lines 8-51).

Claims 8 and 16. A compensation contract supporting system as claimed in claim 1, further comprising a risk factor acquiring unit which acquires information related to said customer from said customer, acquires said risk factors from said database, calculates a correlation between said information and said risk factors, selects the risk factors, an absolute value of said correlation of which is greater than a predetermined value, and outputs said selected risk factors to said first probability calculation unit (col. 12, lines 25-58 and col. 14, lines 9-59).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burczyk (US 2003/0208422) disclosed trading risk factors found in financial exposures.

Hache (US 6,856,969) disclosed a debt contract system.


Inquiries

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 15, 2007


ELLA COLBERT
PRIMARY EXAMINER